

Application Ser. No.: 10/761,982
Filing Date: January 21, 2004
Examiner: Stockton, Laura

Remarks

In the Office Action, the Examiner noted that claims 1 to 35 are pending in the application; claims 23-34 are withdrawn from consideration; and that claims 1 to 22 and 35 are rejected. By this amendment, claims 1, 5, 7, 9, 11, 13, 14, 15, 17, 18, 27 and 31 have been amended, and claims 4 and 23 to 26 have been cancelled without prejudice or disclaimer of the subject matter contained therein. Thus, claims 1-3, 5-22 and 27-35 are pending in the application. No new subject matter has been inserted through these amendments. All of the amendments are fully supported by the specification. The Examiner's rejections are traversed below.

Election/Restriction

The Examiner has made her 12-way restriction final. Accordingly, Applicants have amended claims to be in conformity with the elected Group IV invention, that is, claims 1-22 and 35, drawn to compounds of formula (1) or (2) wherein X and Y are each N, and the Ar attached to fused cyclohexenyl ring in the formulas is a phenyl. Accordingly, the remainder of the subject matter in claim 1 has been deleted. Similarly, the affected dependent claims 23 to 26 have been canceled without prejudice. As a result, dependent claim 4 has been canceled as it no longer provides any additional limitation than already provided in claim 1. All of the claims which originally depended upon claim 4 have been amended to depend on claim 3. Applicants reserve the right to place the canceled subject matter in one or more divisional applications.

However, as also noted by the Examiner, in accordance with M.P.E.P. § 821.04 rejoinder of claims 27-34 which are drawn to the use of compounds having the same scope as recited in claim 1 is respectfully requested. Please note that the independent use claims 27 and 31 have been amended to place them in same scope as claim 1 as it is believed to be in condition for allowance.

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Rejection Under 35 U.S.C. § 112, Second Paragraph

Claims 1-22 and 35 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular, claim 1 is rejected because under the definition of 5 or 6 membered aromatic heterocyclic in Ar, an "and" is needed after "NH(C₁-C₄)alkyl." However, as noted above, the entire 5 or 6 membered aromatic heterocyclic in Ar has been deleted in view of the withdrawn subject matter. Thus, this rejection as to claim 1 is rendered moot.

It is alleged that claim 5 lacks antecedent basis because of the definition of Ra₁. Claim 5 has been amended to provide the same definition as provided in claim 1 for Ra₁. Thus it is submitted that claim 5, as amended, overcomes this rejection.

The Examiner notes that a period is missing at the end of claim 14, which has now been provided through this amendment.

It is further stated that claim 15 lacks antecedent basis for the broad definition of Ar. Claim 15 as amended includes phenyl, pyridyl, oxadiazolyl or thiophenyl within the definition of R₂ all of which are within the definition of R₂ in claim 1. Thus, it is submitted that claim 15 as amended overcomes this rejection.

Finally, it is alleged that claim 18 lacks antecedent basis from claim 14. Claim 18 as amended properly depends on claim 17, thus overcoming this rejection.

In view of the foregoing, it is respectfully submitted that claims 1-22 and 35, as amended, fully satisfy the requirements of 35 U.S.C. 112, second paragraph, and therefore, withdrawal of this rejection as to claims 1-22 and 35 is respectfully requested.

Conclusions

In view of the above Remarks, it is respectfully submitted that claims 1-3, 5-22 and 27-35 are now in condition for allowance and the early issuance of this case is respectfully requested. In the event the Examiner wishes to contact the undersigned regarding any matter, please call (collect if necessary) the telephone number listed below.

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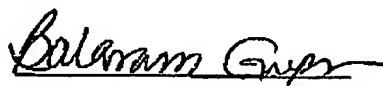
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Applicants believe there are no fees due for this Rule 111 Amendment. However, if the Examiner deems that fees are due, please charge these fees to Deposit Account No. 18-1982 for Aventis Pharmaceuticals Inc. Bridgewater, NJ. Please credit any overpayment to Deposit Account No. 18-1982.

July 8, 2005

Respectfully submitted,



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